

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.22871 of 2008

G.Lakshmipathy

...Petitioner

Vs.

1. The Presiding Officer,
Principal Labour Court,
Chennai - 104.

2. The Management
Gaja Shoes,
No.72, Harrington Road,
Chetpet, Chennai - 600 031.

.... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the award of the 1st respondent, Principal Labour Court, Chennai - 104, passed in I.D.No.449/03 dated 27.02.2008, quash the same and direct the 2nd respondent to reinstate the petitioner with full backwages attendant the benefits from 25.07.2002.

For Petitioner : M/s.Thamizharasi Associates

For R2 : Mr.D.Veda

R1 - Court

सत्यमेव जयते

O R D E R

This Writ Petition has been filed to call for the award of the 1st respondent, Principal Labour Court, Chennai - 104, passed in I.D.No.449/03 dated 27.02.2008 and to quash the same, and to direct the 2nd respondent to reinstate the petitioner with full backwages and all other attendant benefits from 25.07.2002.

2. The petitioner was appointed temporarily as a driver in the respondent company on 31.01.1995 for a monthly salary of Rs.1,250/-and he was made permanent on 01.06.1996, thereby, his

salary was also increased to Rs.1750/- per month. He had been in service till 24.07.2002 and thereafter, he was terminated from service on 25.07.2002 by the respondent. His last drawn salary was Rs.3556/-. Even though, the petitioner had continuously requested the respondent to reinstate him in service, there was no response from the respondent, hence, he filed a petition under Section 2(A) of Industrial Disputes Act, before the Labour Officer II, Kuralagam, Chennai - 600108, to reinstate him with backwages in proceedings No.Aa/751/02. Due to failure in talks, the Labour Officer II, had given his failure report on 01.04.2003. Against which, the petitioner had filed a Petition before the Principal Labour Court, Chennai - 104, in I.D.No.449/2003. The Principal Labour Court, by an award dated 27.02.2008, had dismissed the claim of the petitioner on 27.02.2008 with an observation that the petitioner is at liberty to join duty as per the orders of transfer if he is prepared to join duty. Aggrieved by the said order, the present Writ Petition has been filed by the petitioner to quash the award of the 1st respondent dated 27.02.2008 and to direct the 2nd respondent to reinstate him with full backwages attendant benefits from 25.07.2002.

3. On perusal of the findings of the Principal Labour Court dated 27.02.2008, it could be seen that the letter of the management dated 26.07.2002 sent to the petitioner on 27.07.2002, is only an order of transfer and not an order of termination. But, the petitioner, without complying to the said order, had directly approached the Conciliation Officer on 29.07.2002 with the dispute under Section 2A of Industrial Disputes Act and to which, a counter statement had also been filed by the respondent management on 04.08.2002. Further, it could be seen that even though the petitioner had stated that he was terminated from service on 25.07.2002, no such order of termination was filed before the Labour Court. However, during cross examination, it has been found that the order of transfer which was sent to the petitioner on 27.07.2002, was returned to the management, hence, the petitioner had no knowledge about the order of transfer until the counter statement was filed before the conciliation officer by the respondent management. Moreover, the petition filed under Section 2(A)(1) of the Industrial Disputes Act, 1947, was dismissed by the Labour Court, with an observation that the petitioner is at liberty to join duty as per the orders of transfer, if the petitioner is prepared to join duty and the respondent shall permit him to join duty.

4. The learned counsel for the second respondent would submit that the second respondent company has already been closed and it does not functioning.

5. The learned counsel for the petitioner would submit that he had sent a representation to the management on 26.08.2008 to reinstate him in service, but, there was no response from the management.

6. As per the award of the Labour Court, the petitioner has to join duty as there was no order of termination, but, the petitioner, receiving the order copy of the same, had not reported to employment and had sent a letter to the respondent management after six months, to take him back for employment. However, since the petitioner's company has already been closed, the order of the Labour Court has become infructuous, and nothing survives for further adjudication. Hence, the Writ Petition is dismissed. No Costs.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

raja

To

1. The Presiding Officer,
Principal Labour Court,
Chennai - 104.

+1cc to Mr.S.Thamizharasi, Advocate, S.R.No. 49035
+1cc to Mr.Meenakshi Sundaram & Dwarakanathan, Advocate,
S.R.No. 49104

W.P.No.22871 of 2008

GN(13/11/2018)

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